

**REMARKS**

Claims 3 and 5-13 remain in this application. A request for a one-month extension is submitted herewith. Applicant respectfully requests reexamination.

Claims 3, 7-8 and 10-11 were rejected under 35 U.S.C. § 102(e) as being clearly anticipated by *Rostoker* (US 6,111,863). Applicant respectfully traverses.

*Rostoker* is directed to a wireless communication system such as a cell phone system, for example, that transmits video, audio and data signals between the different components. *Rostoker* discloses priorities being allocated to the video, audio and data signals (column 4, line 36). These priorities can be changed dynamically in response to a request from a party using the communication system if higher quality audio is desired, for example (column 4, lines 66-67, and column 5, lines 1-7).

The present invention, on the other hand, as set forth in claim 8 and requires that the decision to increase priority be made at a central location on the basis of whether a specific block of data will be transmitted within a predetermined time period allotted for transmitting that specific block of data. Specifically, the claim calls for

"while data is being transported, monitoring at the central location the data remaining to be transmitted to determine whether the remaining data will be transmitted within a satisfactory predetermined time period; and

if any of the remaining data will not be transmitted within the predetermined time period, changing the priority of the remaining data so that it will be transmitted within the predetermined time period."

The Office Action refers to column 5, lines 1-7, of *Rostoker* as a teaching of dynamic allocation of priorities. Applicant respectfully traverses. This part of *Rostoker* teaches that priority assignments are changed at the request of a user, based on that user's desire to obtain

higher fidelity audio data, for example. This simply is not the same thing as monitoring data at a central location "to determine whether the remaining data will be transmitted within a satisfactory predetermined time period."

The Office Action refers to column 6, lines 52-58, for a teaching as to how the transmission is changed according to the new priorities. Column 6, lines 52-58, discusses the specific mechanics of the buffer circuitry of *Rostoker* in handling the priority allocation choice made by a user. It is respectfully submitted that this is not a teaching of "if any of the remaining data will not be transmitted within the predetermined time period, changing the priority of the remaining data so that it will be transmitted within the predetermined time period." Although time is inherently involved in the changing of priority assignments for *Rostoker* specific signals, i.e., video, audio and data, time is not the triggering consideration for a change in priority. *Rostoker* teaches that the trigger for making the priority assignment change is a party's request.

Clearly, *Rostoker* does not teach the invention as set forth in claim 8.

Claims 3 and 7 depend from and further limit claim 8. Since *Rostoker* does not disclose or teach the limitations of claim 8, claims 3 and 7 are seen as also patentable over *Rostoker*.

Claim 10 is an independent apparatus claim that claims a processing system for monitoring data at a central location that remains to be transmitted, determining whether the remaining data will be transmitted within the satisfactory predetermined time period, and changing that data's priority if the data will not be transmitted within the predetermined time period. As explained above with reference to method claim 8, *Rostoker* does not show or teach such a structure or function. *Rostoker*'s system of allowing a change in priority assignments for certain signals, i.e., video, audio or data, upon the choice of the user, simply does not anticipate the claimed structure of independent claim 10.

Claim 11 depends from and further limits claim 10. For the reasons set forth above for claim 10, claim 11 is also seen as allowable. Applicant respectfully requests that this rejection be withdrawn.

Claims 5 and 12-13 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Rostoker* in view of *Acampora* (US 5,729,292). Applicant respectfully traverses. Claims 5, 12 and 13 depend from independent claim 8 and further limit independent claim 8.

The Office Action points out that *Rostoker*

"fails to teach monitoring a packet to be sent out and if space remains in such a packet, the space being insufficient to accommodate data allocated a relatively high priority, incorporating lower priority data into the space prior to transmission."

The Office Action refers to *Acampora* for a teaching of dividing a packet into different packet slots wherein each packet slot has a corresponding priority list. Applicant respectfully traverses.

*Acampora* is concerned with a method for optimizing the operation of a packet transport system by generating a packet stream that carries a plurality of component signals. According to *Acampora*, his packet stream is generated by placing data from a component signal source into a packet slot. The component signal source is selected in response to signal identification data that is found in a list associated with that packet slot (column 2, lines 9-25). The Office Action refers to column 4, lines 38-45, for a teaching of reassigning priority of a low data rate signal to a higher priority packet slot. Applicant respectfully submits that this is hardly a teaching of

"monitoring a packet to be sent and if space remains in such a packet, the space being insufficient to accommodate data allocated at a relatively high priority, incorporating lower priority data into the space prior to transmission."

Moreover, any combination of *Rostoker* and *Acampora* as suggested by the Office Action simply would not produce the claimed invention.

With respect to claims 12 and 13, applicant respectfully reasserts the above arguments. Any combination of *Rostoker* and *Acampora*, as suggested in the Office Action, simply would not produce the claimed invention. Applicant respectfully requests that these rejections be withdrawn.

Claims 6 and 9 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Rostoker* in view of *Cash et al.* (US 5,481,312). Applicant respectfully traverses.

*Cash* is directed to a system of transmitting compressed, previously stored video over lossy packet networks. The problem that *Cash* is trying to solve is that compression of video signals reduces redundancy, and because the system loses random parts of a compressed video bit stream, a drastic reduction in the quality of the received video occurs. *Cash* proposes to solve this problem by assigning different priorities to different parts of the video bit stream. The bit stream containing vital control information such as the codes that define the start of pictures and picture header information is given high priority. The rest of the bit stream is given low priority. The high priority information is then sent over the network, using a "guaranteed delivery mechanism." The low priority information is sent in real time over the network using a "non-guaranteed delivery mechanism."

The Office Action refers to *Cash* (column 7, lines 27-39) for a teaching of controlled commands commonly found in VCRs such as stop, pause, fast forward, fast backward, replay, etc. Applicant respectfully submits that the combination of *Rostoker* and *Cash* as suggested by the Office Action simply will not produce the invention as claimed in Claims 6 and 9. Applicant respectfully requests that this rejection be withdrawn.

///

///

In light of the above amendment and remarks, applicant believes that all the claims are in condition for allowance and respectfully requests that this application be passed to issue.

I certify that this correspondence is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10, Express Mail Label No. EV338057095US in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on February 5, 2004.

By: Marc Fregoso

Marc Fregoso  
Signature

Dated: February 5, 2004

Respectfully submitted,

**SNELL & WILMER L.L.P.**

Albin H. Gess  
Albin H. Gess  
Registration No. 25,726  
1920 Main Street, Suite 1200  
Irvine, California 92614-7230  
Telephone: (949) 253-2720